

## § 301.78

## 7 CFR Ch. III (1–1–04 Edition)

accordance with paragraph (c) of this section, receive a payment calculated using the following rates:

Citrus variety	Payment (per acre)
Grapefruit .....	\$3,342
Orange, Valencia, and tangerine .....	6,446
Orange, navel (includes early and midseason oranges) .....	6,384
Tangelo .....	1,989
Lime .....	6,503
Other or mixed citrus .....	3,342

(2) *Payment adjustments.* (i) In cases where the owner of a commercial citrus grove had obtained ACC coverage for trees in his or her grove and received crop insurance payments following the destruction of the insured trees, the payment provided for under paragraph (b)(1) of this section will be reduced by the total amount of the crop insurance payments received by the commercial citrus grove's owner for the insured trees.

(ii) In cases where ACC coverage was available for trees in a commercial citrus grove but the owner of the grove had not obtained ACC coverage for his or her insurable trees, the per-acre payment provided for under paragraph (b)(1) of this section will be reduced by 5 percent.

(c) *How to apply for lost production payments.* The form necessary to apply for lost production payments may be obtained from any local citrus canker eradication program office in Florida, or from the USDA Citrus Canker Project, 6901 West Sunrise Boulevard, Plantation, FL 33313. The completed application should be accompanied by a copy of the public order directing the destruction of the trees and its accompanying inventory that describes the acreage, number, and the variety of trees removed. Your completed application must be sent to the USDA Citrus Canker Eradication Project, Attn: Lost Production Payments Program, c/o Division of Plant Industry, 3027 Lake Alfred Road, Winter Haven, FL 33881. Claims for losses attributable to the destruction of trees on or before the effective date of this rule must be received on or before September 17, 2001. Claims for losses attributable to the destruction of trees after the effective date of this rule must be received within 60 days after the destruction of the

trees. The Administrator may, on a case-by-case basis, approve the consideration of late claims when the circumstances appear, in the opinion of the Administrator, to warrant such consideration. However, any request for consideration of a late claim must be submitted to the Administrator on or before July 18, 2002 for trees destroyed on or before July 18, 2001, and within 1 year after the destruction of the trees for trees destroyed after July 18, 2001.

[66 FR 32717, June 18, 2001; 66 FR 33740, June 25, 2001]

### Subpart—Mediterranean Fruit Fly

SOURCE: 56 FR 57576, Nov. 13, 1991, unless otherwise noted.

### § 301.78 Restrictions on interstate movement of regulated articles.

No person shall move interstate from any quarantined area any regulated article except in accordance with this subpart.<sup>1</sup>

[56 FR 57576, Nov. 13, 1991, as amended at 66 FR 21051, Apr. 27, 2001]

#### § 301.78–1 Definitions.

In this subpart the following definitions apply:

*Administrator.* The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

*Animal and Plant Health Inspection Service.* The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS).

*Certificate.* A document in which an inspector or person operating under a compliance agreement affirms that a specified regulated article is free of Mediterranean fruit fly and may be moved interstate to any destination.

*Commercially produced.* Fruits and vegetables that an inspector identifies as having been produced for sale and

<sup>1</sup>Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

distribution in mass markets. Such identification will be based on a variety of indicators, including, but not limited to: Quantity of produce, monocultural practices, pest management programs, good sanitation practices including destruction of culls, type of packaging, identification of grower or packing house on the packaging, and documents consigning the shipment to a wholesaler or retailer.

**Compliance agreement.** A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart.

**Core area.** The 1 square mile area surrounding each property where Mediterranean fruit fly has been detected.

**Day degrees.** A mathematical construct combining average temperature over time that is used to calculate the length of a Mediterranean fruit fly life cycle. Day degrees are the product of the following formula, with all temperatures measured in °F: [(Minimum Daily Temp + Maximum Daily Temp)/2] – 54° = Day Degrees.

**Drip line.** The line around the canopy of a plant.

**Infestation.** The presence of the Mediterranean fruit fly or the existence of circumstances that make it reasonable to believe that the Mediterranean fruit fly is present.

**Inspector.** Any employee of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person authorized by the Administrator to enforce this subpart.

**Interstate.** From any State into or through any other State.

**Limited permit.** A document in which an inspector or person operating under a compliance agreement affirms that the regulated article identified on the document is eligible for interstate movement in accordance with § 301.78-5(b) of this subpart only to a specified destination and only in accordance with specified conditions.

**Mediterranean fruit fly.** The insect known as Mediterranean fruit fly *Ceratitis capitata* (Wiedemann) in any stage of development.

**Moved (Move, Movement).** Shipped, offered for shipment, received for transportation, transported, carried, or al-

lowed to be moved, shipped, transported, or carried.

**Person.** Any association, company, corporation, firm, individual, joint stock company, partnership, society, or other entity.

**Quarantined area.** Any State, or any portion of a State, listed in § 301.78-3(c) of this subpart or otherwise designated as a quarantined area in accordance with § 301.78-3(b) of this subpart.

**Regulated article.** Any article listed in § 301.78-2(a) or (b) of this subpart or otherwise designated as a regulated article in accordance with § 301.78-2(c) of this subpart.

**State.** The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory or possession of the United States.

[56 FR 57576, Nov. 13, 1991; 56 FR 63550, Dec. 4, 1991; 62 FR 33538, June 20, 1997; 62 FR 47556, Sept. 10, 1997]

#### § 301.78-2 Regulated articles.

The following are regulated articles:

(a) The following berries, fruits, nuts, and vegetables.

Almond with husk (*Prunus dulcis* (*P. amygdalus*))  
 Apple (*Malus sylvestris*)  
 Apricot (*Prunus armeniaca*)  
 Avocado (*Persea americana*)  
 Black Myrobalan (*Terminalia cherbula*)  
 Cherries (sweet and sour) (*Prunus avium*, *P. cerasus*)  
 Citrus citron (*Citrus medica*)  
 Date (*Phoenix dactylifera*)  
 Eggplant (*Solanum melongena* L.), other than commercially produced eggplant  
 Fig (*Ficus carica*)  
 Grape (*Vitis* spp.)  
 Grapefruit (*Citrus paradisi*)  
 Guava (*Psidium guajava*)  
 Japanese persimmon (*Diospyros kaki*)  
 Japanese plum (*Prunus salicina*)  
 Kiwi (*Actinidia chinensis*)  
 Kumquat (*Fortunella japonica*)  
 Lemon (*Citrus limon*) except smooth-skinned lemons harvested for packing by commercial packing houses.  
 Lemon, Meyer (*Citrus limon* × *reticulata*)  
 Lemon, Rough (*Citrus jambhiri*)  
 Lime, sweet (*Citrus aurantiifolia*)  
 Loquat (*Eriobotrya japonica*)  
 Mandarin orange (*Citrus reticulata*) (tangerine)  
 Mango (*Mangifera indica*)  
 Mock orange (*Murraya exotica*)  
 Mountain apple (*Syzgium malaccense* (*Eugenia malaccensis*))  
 Natal plum (*Carissa macrocarpa*)